

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 41-57 are pending in the present application. Claims 41, 49 and 50 have been amended and claims 51-57 have been added by the present Amendment.

In the outstanding Office Action, claims 41-50 were rejected under 35 U.S.C. § 102(b) as anticipated by Applicant's admitted prior art (AAPA) or alternatively as anticipated by Ito. These rejections are respectfully traversed.

Independent claim 1 is directed to a combination of steps and has been amended to clarify that the formatting step formats the optical recording medium in response to the formatting request at least to use the second spare area as a continuous portion of a user data area after formatting, wherein the second spare area is changed into the continuous portion of the user data area by formatting so that a size of the user data area is increased. Independent claim 41 is also been amended to clarify that the step (a) includes creating a new defect list of the defect management area to replace an old defect list in response to changing of the second spare area. These features are supported at least by Figure 6 and paragraph [0038]. Independent claims 49 and 50 include similar features in a varying scope.

On the contrary, AAPA only teaches increasing the size of a supplemental spare area as shown in Figures 4(a) and 4(b). That is, Figure 4(b) illustrates the supplemental spare area being increased from the size shown in Figure 4(a). AAPA does not teach or suggest the second spare area being changed into the continuous portion of the user data area by formatting so that a size of the user data area is increased. Ito et al. does not teach or suggest these features. That is, AAPA and Ito et al do not teach or suggest changing a spare area as a continuous portion of a user data area after formatting.

Accordingly, it is respectfully submitted independent claims 41, 49 and 50 and each of the claims depending therefrom are allowable.

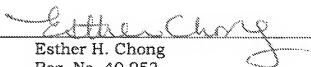
In addition, new claims 51-57 have been added to set forth the invention, and Applicant submits the new claims are supported by the originally filed specification. It is respectfully submitted the new claims 51-57 are allowable for similar reasons as discussed above.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH &, BIRCH, LLP

By: _____


Esther H. Chong
Reg. No. 40,953

EHK/DAB/py
0465-1141P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000